

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

VARIETY STORES, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 5:14-cv-00217
	)	
WAL-MART STORES, INC.,	)	
	)	
Defendant.	)	
	)	

**MOTION IN LIMINE BY PLAINTIFF VARIETY STORES, INC.  
TO EXCLUDE DEFENDANT WAL-MART STORES, INC.'S EXPERT REPORTS AND  
TESTIMONY OF PORET, MANTIS, VAN LIERE AND ROGERS**

Plaintiff Variety Stores, Inc. (“Variety”) respectfully moves this Court for an Order *in limine* excluding the expert reports and testimony of Walmart proposed witnesses Poret, Mantis, Van Liere and Rogers. As explained in the accompanying Memorandum of Law In Support of Plaintiff Variety Stores, Inc.’s Motion In Limine to Exclude Walmart’s Expert Reports of Poret, Mantis, Van Liere, and Rogers, the reports and testimony sought to be presented by Walmart through these witnesses are irrelevant, unreliable and in conflict with this Court’s prior Order granting summary judgment in Variety’s favor on the confusion and commercial strength issues addressed by these surveys. An Order *in Limine* is necessary and appropriate in order to avoid unnecessary further discovery and trial preparation, and to limit issues and evidence presented to the Court in the remedies phase of the case to only that evidence relevant to the issue of the recovery, if any, to which Variety is entitled as a result of Walmart’s willful infringement, as previously determined by the Court.

This the 18<sup>th</sup> day of February, 2016.

Respectfully submitted,

/s/ W. Thad Adams, III

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LR 83.1 Counsel

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### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This the 18<sup>th</sup> day of February, 2016.

Respectfully submitted,

/s/ W. Thad Adams, III  
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